

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4040
OFFERED BY MR. RUSH**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Consumer Product Safety Modernization Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—CHILDREN’S PRODUCT SAFETY

Sec. 101. Ban on children’s products containing lead; lead paint rule.
Sec. 102. Mandatory third-party testing for certain children’s products.
Sec. 103. Tracking labels for children’s products.
Sec. 104. Standards and consumer registration of durable nursery products.
Sec. 105. Labeling requirement for certain internet and catalogue advertising of toys and games.
Sec. 106. Study of preventable injuries and deaths in minority children related to consumer products.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Sec. 201. Reauthorization of the Commission.
Sec. 202. Structure and quorum.
Sec. 203. Submission of copy of certain documents to Congress.
Sec. 204. Expedited rulemaking.
Sec. 205. Public disclosure of information.
Sec. 206. Prohibition on stockpiling under other Commission-enforced statutes.
Sec. 207. Notification of noncompliance with any Commission-enforced statute.
Sec. 208. Corrective action plans.
Sec. 209. Website notice, notice to third party internet sellers, and radio and television notice.
Sec. 210. Identification of manufacturer, importers, retailers, and distributors.
Sec. 211. Export of recalled and non-conforming products.
Sec. 212. Prohibition on sale of recalled products.

Sec. 213. Increased civil penalty.

Sec. 214. Criminal penalties to include asset forfeiture.

Sec. 215. Enforcement by State attorneys general.

Sec. 216. Sharing of information with Federal, State, local, and foreign government agencies.

Sec. 217. Industry-sponsored travel ban.

1 **SEC. 2. REFERENCES.**

2 (a) COMMISSION.—As used in this Act, the term
3 “Commission” means the Consumer Product Safety Com-
4 mission.

5 (b) CONSUMER PRODUCT SAFETY ACT.—Except as
6 otherwise expressly provided, whenever in this Act an
7 amendment is expressed as an amendment to a section
8 or other provision, the reference shall be considered to be
9 made to a section or other provision of the Consumer
10 Product Safety Act (15 U.S.C. 2051 et seq.).

11 **TITLE I—CHILDREN’S PRODUCT**
12 **SAFETY**

13 **SEC. 101. BAN ON CHILDREN’S PRODUCTS CONTAINING**
14 **LEAD; LEAD PAINT RULE.**

15 (a) CHILDREN’S PRODUCTS CONTAINING LEAD.—

16 (1) BANNED HAZARDOUS SUBSTANCE.—Effec-
17 tive 180 days after the date of enactment of this
18 Act, any children’s product containing more than the
19 amounts of lead set forth in paragraph (2) shall be
20 a banned hazardous substance within the meaning of
21 section 2(q)(1) of the Federal Hazardous Substances
22 Act (15 U.S.C. 1261(q)(1)).

1 (2) STANDARD FOR AMOUNT OF LEAD.—The
2 amounts of lead referred to in paragraph (1) shall
3 be—

4 (A) 600 parts per million total lead con-
5 tent by weight for any part of the product;

6 (B) 300 parts per million total lead con-
7 tent by weight for any part of the product, ef-
8 fective 2 years after the date of enactment of
9 this Act; and

10 (C) 100 parts per million total lead content
11 by weight for any part of the product, effective
12 4 years after the date of enactment of this Act,
13 unless the Commission determines, after notice
14 and a hearing, that a standard of 100 parts per
15 million is not feasible, in which case the Com-
16 mission shall require the lowest amount of lead
17 that the Commission determines is feasible to
18 achieve.

19 (3) COMMISSION REVISION TO MORE PROTEC-
20 TIVE STANDARD.—

21 (A) MORE PROTECTIVE STANDARD.—The
22 Commission may, by rule, revise the standard
23 set forth in paragraph (2)(C) for any class of
24 children's products to any level and form that
25 the Commission determines is—

- 1 (i) more protective of human health;
2 and
3 (ii) feasible to achieve.

4 (B) PERIODIC REVIEW.—The Commission
5 shall, based on the best available scientific and
6 technical information, periodically review and
7 revise the standard set forth in this section to
8 require the lowest amount of lead that the
9 Commission determines is feasible to achieve.

10 (4) COMMISSION AUTHORITY TO EXCLUDE CER-
11 TAIN MATERIALS.—The Commission may, by rule,
12 exclude certain materials from the prohibition in
13 paragraph (1) if the Commission determines that
14 the lead content in such materials is of a nature that
15 ingestion of such materials will not result in the
16 leaching of lead from such materials into the human
17 body.

18 (5) DEFINITION OF CHILDREN’S PRODUCT.—

19 (A) IN GENERAL.—As used in this sub-
20 section, the term “children’s product” means a
21 consumer product as defined in section 3(1) of
22 the Consumer Product Safety Act (15 U.S.C.
23 2052(1)) designed or intended primarily for
24 children 12 years of age or younger.

1 (B) FACTORS TO BE CONSIDERED.—In de-
2 termining whether a product is primarily in-
3 tended for a child 12 years of age or younger,
4 the following factors shall be considered:

5 (i) A statement by a manufacturer
6 about the intended use of such product, in-
7 cluding a label on such product if such
8 statement is reasonable.

9 (ii) Whether the product is rep-
10 resented in its packaging, display or adver-
11 tising as appropriate for use by children 12
12 years of age or younger.

13 (iii) Whether the product is commonly
14 recognized by consumers as being intended
15 for use by child 12 years of age or young-
16 er.

17 (iv) The Age Determination Guideline
18 issued by the Commission in September
19 2002, and any successor thereto.

20 (6) EXCEPTION FOR INACCESSIBLE COMPO-
21 NENT PARTS.—The standards established under
22 paragraph (2) shall not apply to any component of
23 a children's product that is not accessible to a child
24 through normal and reasonably foreseeable use and
25 abuse of such product, as determined by the Com-

1 mission. A component part is not accessible under
2 this paragraph if such component part is not phys-
3 ically exposed by reason of a sealed covering or cas-
4 ing and does not become physically exposed through
5 reasonably foreseeable use and abuse of the product.
6 The Commission may require that certain electronic
7 devices be equipped with a child-resistant cover or
8 casing that prevents exposure of and accessibility to
9 the parts of the product containing lead if the Com-
10 mission determines that it is not feasible for such
11 products to otherwise meet such standards.

12 (b) PAINT STANDARD FOR ALL PRODUCTS.—Not
13 later than 180 days after the date of enactment of this
14 Act, the Commission shall modify section 1303.1 of title
15 16, Code of Federal Regulations, to—

16 (1) reduce the standard applicable to lead paint
17 by substituting “0.009 percent” for “0.06 percent”
18 in subsection (a) of that section;

19 (2) apply the standard to all children’s products
20 as defined in subsection (a)(5); and

21 (3) reduce the standard for paint and other
22 surface coating on children’s products and furniture
23 to 0.009 milligrams per centimeter squared.

1 **SEC. 102. MANDATORY THIRD-PARTY TESTING FOR CER-**
2 **TAIN CHILDREN'S PRODUCTS.**

3 (a) MANDATORY AND THIRD-PARTY TESTING.—Sec-
4 tion 14(a) (15 U.S.C. 2063(a)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “Every manufacturer” and
7 inserting “Except as provided in paragraph (2),
8 every manufacturer”; and

9 (B) by striking “standard under this Act”
10 and inserting “rule under this Act or similar
11 rule under any other Act enforced by the Com-
12 mission”;

13 (2) by redesignating paragraph (2) as para-
14 graph (3) and inserting after paragraph (1) the fol-
15 lowing:

16 “(2) Effective 1 year after the date of enact-
17 ment of the Consumer Product Safety Modernization
18 Act, every manufacturer of a children’s product (and
19 the private labeler of such children’s product if such
20 product bears a private label) which is subject to a
21 consumer product safety rule under this Act or a
22 similar rule under any other Act enforced by the
23 Commission, shall—

24 “(A) have the product tested by a inde-
25 pendent third party qualified to perform such

1 tests or a proprietary laboratory certified by the
2 Commission under subsection (e) ; and

3 “(B) issue a certificate which shall—

4 “(i) certify that such product con-
5 forms to such standards or rules; and

6 “(ii) specify the applicable consumer
7 product safety standards or other similar
8 rules.”; and

9 (3) in paragraph (3) (as so redesignated)—

10 (A) by striking “required by paragraph (1)
11 of this subsection” and inserting “required by
12 paragraph (1) or (2) (as the case may be)”;
13 and

14 (B) by striking “requirement under para-
15 graph (1)” and inserting “requirement under
16 paragraph (1) or (2) (as the case may be)”.

17 (b) DEFINITION OF CHILDREN’S PRODUCTS AND
18 INDEPENDENT THIRD PARTY.—Section 14 (15 U.S.C.
19 2063) is amended by adding at the end the following:

20 “(d) DEFINITIONS.—In this section, the following
21 definitions apply:

22 “(1) The term ‘children’s product’ means a con-
23 sumer product designed or intended primarily for
24 children 12 years of age or younger. In determining
25 whether a product is primarily intended for a child

1 12 years of age or younger, the following factors
2 shall be considered:

3 “(A) A statement by a manufacturer about
4 the intended use of such product, including a
5 label on such product if such statement is rea-
6 sonable.

7 “(B) Whether the product is represented
8 in its packaging, display or advertising as ap-
9 propriate for use by children 12 years of age or
10 younger.

11 “(C) Whether the product is commonly
12 recognized by consumers as being intended for
13 use by child 12 years of age or younger.

14 “(D) The Age Determination Guideline
15 issued by the Commission in September 2002,
16 and any successor thereto

17 “(2) The term ‘independent third party’, means
18 an independent testing entity that is not owned,
19 managed, controlled, or directed by such manufac-
20 turer or private labeler, and that is accredited in ac-
21 cordance with an accreditation process established or
22 recognized by the Commission. In the case of certifi-
23 cation of art material or art material products re-
24 quired under this section or under regulations issued
25 under the Federal Hazardous Substances Act, such

1 term includes a certifying organization, as such term
2 is defined in appendix A to section 1500.14(b)(8) of
3 title 16, Code of Federal Regulations.”.

4 (c) CERTIFICATION OF PROPRIETARY LABORA-
5 TORIES.—Section 14 (15 U.S.C. 2063) is further amended
6 by adding at the end the following:

7 “(e) CERTIFICATION OF PROPRIETARY LABORA-
8 TORIES FOR MANDATORY TESTING.—

9 “(1) CERTIFICATION.—Upon request, the Com-
10 mission, or an independent standard-setting organi-
11 zation to which the Commission has delegated such
12 authority, may certify a laboratory that is owned,
13 managed, controlled, or directed by the manufac-
14 turer or private labeler for purposes of testing re-
15 quired under this section if the Commission deter-
16 mines that—

17 “(A) certification of the laboratory would
18 provide equal or greater consumer safety pro-
19 tection than the manufacturer’s use of an inde-
20 pendent third party laboratory;

21 “(B) the laboratory has established proce-
22 dures to ensure that the laboratory is protected
23 from undue influence, including pressure to
24 modify or hide test results, by the manufacturer
25 or private labeler; and

1 “(C) the laboratory has established proce-
2 dures for confidential reporting of allegations of
3 undue influence to the Commission.

4 “(2) DECERTIFICATION.—The Commission, or
5 an independent standard-setting organization to
6 which the Commission has delegated such authority,
7 may decertify any laboratory certified under para-
8 graph (1) if the Commission finds, after notice and
9 investigation, that a manufacturer or private labeler
10 has exerted undue influence on the laboratory.”.

11 (d) CONFORMING AMENDMENTS.—Section 14(b) (15
12 U.S.C. 2063(b)) is amended—

13 (1) by striking “standards under this Act” and
14 inserting “rules under this Act or similar rules
15 under any other Act enforced by the Commission”;
16 and

17 (2) by striking “, at the option of the person re-
18 quired to certify the product,” and inserting “be re-
19 quired by the Commission to”.

20 **SEC. 103. TRACKING LABELS FOR CHILDREN’S PRODUCTS.**

21 Section 14(a) (15 U.S.C. 2063(a)) is further amend-
22 ed by adding at the end the following:

23 “(4) Effective 1 year after the date of enact-
24 ment of the Consumer Product Safety Modernization
25 Act, the manufacturer of a children’s product shall,

1 to the extent feasible, place distinguishing marks on
2 the product and its packaging that will enable the
3 manufacturer and the ultimate purchaser to ascer-
4 tain the location and date of production of the prod-
5 uct, and any other information determined by the
6 manufacturer to facilitate ascertaining the specific
7 source of the product by reference to those marks.”.

8 **SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF**
9 **DURABLE NURSERY PRODUCTS.**

10 (a) SAFETY STANDARDS.—

11 (1) IN GENERAL.—The Consumer Products
12 Safety Commission shall—

13 (A) examine and assess the effectiveness of
14 any voluntary consumer product safety stand-
15 ards on which the Commission has relied with
16 respect to durable infant or toddler product;
17 and

18 (B) in accordance with section 553 of title
19 5, United States Code, promulgate consumer
20 product safety rules that—

21 (i) are substantially the same as such
22 voluntary standards; or

23 (ii) are more stringent than such vol-
24 untary standards, if the Commission deter-
25 mines that more stringent standards would

1 further reduce the risk of injury associated
2 with such products.

3 (2) TIMETABLE FOR RULEMAKING.—Not later
4 than 1 year after the date of enactment of this Act,
5 the Commission shall commence the rulemaking re-
6 quired under paragraph (1) and shall promulgate
7 rules for no fewer than 2 categories of durable nurs-
8 ery products every 6 months thereafter, beginning
9 with the product categories that the Commission de-
10 termines to be of highest priority, until the Commis-
11 sion has promulgated standards for all such product
12 categories. Thereafter, the Commission shall periodi-
13 cally review and revise the rules set forth under this
14 subsection to ensure that such rules provide the
15 highest level of safety for such products that is fea-
16 sible.

17 (b) CONSUMER REGISTRATION REQUIREMENT.—

18 (1) RULEMAKING.—Not later than 1 year after
19 the date of enactment of this Act, the Commission
20 shall, pursuant to its authority under section 16(b)
21 of the Consumer Product Safety Act (15 U.S.C.
22 2065(b)), promulgate a final consumer product safe-
23 ty rule to require manufacturers of durable infant or
24 toddler products—

1 (A) to provide consumers with a postage-
2 paid consumer registration form with each such
3 product;

4 (B) to maintain a record of the names, ad-
5 dresses, email addresses, and other contact in-
6 formation of consumers who register their own-
7 ership of such products with the manufacturer
8 in order to improve the effectiveness of manu-
9 facturer campaigns to recall such products; and

10 (C) to permanently place the manufacturer
11 name and contact information, model name and
12 number, and the date of manufacture on each
13 durable infant or toddler product.

14 (2) REQUIREMENTS FOR REGISTRATION
15 FORM.—The registration form required to be pro-
16 vided to consumers under subsection (a) shall—

17 (A) include spaces for a consumer to pro-
18 vide their name, address, telephone number,
19 and email address;

20 (B) include space sufficiently large to per-
21 mit easy, legible recording of all desired infor-
22 mation;

23 (C) be attached to the surface of each du-
24 rable infant or toddler product so that, as a

1 practical matter, the consumer must notice and
2 handle the form after purchasing the product;

3 (D) include the manufacturer's name,
4 model name and number for the product, and
5 the date of manufacture;

6 (E) include a message explaining the pur-
7 pose of the registration and designed to encour-
8 age consumers to complete the registration;

9 (F) include an option for consumers to
10 register through the Internet; and

11 (G) include a statement that information
12 provided by the consumer shall not be used for
13 any purpose other than to facilitate a recall of
14 or safety alert regarding that product.

15 In issuing regulations under this section, the Com-
16 mission may prescribe the exact text and format of
17 the required registration form.

18 (3) RECORD KEEPING AND NOTIFICATION RE-
19 QUIREMENTS.—The standard required under this
20 section shall require each manufacturer of a durable
21 infant or toddler product to maintain a record of
22 registrants for each product manufactured that in-
23 cludes all of the information provided by each con-
24 sumer registered, and to use such information to no-
25 tify such consumers in the event of a voluntary or

1 involuntary recall of or safety alert regarding such
2 product. Each manufacturer shall maintain such a
3 record for a period of not less than 6 years after the
4 date of manufacture of the product. Consumer infor-
5 mation collected by a manufacturer under this Act
6 may not be used by the manufacturer, nor dissemi-
7 nated by such manufacturer to any other party, for
8 any purpose other than notification to such con-
9 sumer in the event of a product recall or safety
10 alert.

11 (4) STUDY.—The Commission shall conduct a
12 study at such time as it considers appropriate on the
13 effectiveness of the consumer registration forms in
14 facilitating product recalls. Not later than 4 years
15 after the date of enactment of this Act, the Commis-
16 sion shall report its findings to Congress.

17 (c) DEFINITION OF DURABLE INFANT OR TODDLER
18 PRODUCT.—As used in this section, the term “durable in-
19 fant or toddler product”—

20 (1) means a durable product intended for use,
21 or that may be reasonably expected to be used, by
22 children under the age of 5 years; and

23 (2) shall include—

24 (A) full-size cribs and nonfull-size cribs;

25 (B) toddler beds;

- 1 (C) high chairs, booster chairs, and hook-
2 on chairs;
- 3 (D) bath seats;
- 4 (E) gates and other enclosures for con-
5 fining a child;
- 6 (F) play yards;
- 7 (G) stationary activity centers;
- 8 (H) infant carriers;
- 9 (I) strollers;
- 10 (J) walkers;
- 11 (K) swings; and
- 12 (L) bassinets and cradles.

13 **SEC. 105. LABELING REQUIREMENT FOR CERTAIN INTER-**
14 **NET AND CATALOGUE ADVERTISING OF TOYS**
15 **AND GAMES.**

16 Section 24 of the Federal Hazardous Substances Act
17 (15 U.S.C. 1278) is amended—

18 (1) by redesignating subsections (c) and (d) as
19 subsections (d) and (e), respectively;

20 (2) by inserting after subsection (b) the fol-
21 lowing:

22 “(c) INTERNET, CATALOGUE, AND OTHER ADVER-
23 TISING.—

24 “(1) REQUIREMENT.—Any advertisement of a
25 retailer, manufacturer, importer, distributor, private

1 labeler, or licensor that provides a direct means for
2 the purchase or ordering of any toy, game, balloon,
3 small ball, or marble that requires a cautionary
4 statement under subsections (a) and (b), including
5 advertisement on Internet websites or in catalogues
6 or other distributed materials, shall include the ap-
7 propriate cautionary statement required under such
8 subsections in its entirety displayed on or imme-
9 diately adjacent to such advertisement. Such cau-
10 tionary statement shall be displayed in the language
11 that is primarily used in the advertisement, cata-
12 logue, or Internet website, and in a clear and con-
13 spicuous manner consistent with part 1500 of title
14 16, Code of Federal Regulations (or a successor reg-
15 ulation thereto).

16 “(2) ENFORCEMENT.—The requirement in
17 paragraph (1) shall be treated as a consumer prod-
18 uct safety rule promulgated under section 7 of the
19 Consumer Product Safety Act (15 U.S.C. 2056) and
20 the publication or distribution of any advertisement
21 that is not in compliance with the requirements of
22 paragraph (1) shall be treated as a prohibited act
23 under section 19 of such Act (15 U.S.C. 2068).”.

1 **SEC. 106. STUDY OF PREVENTABLE INJURIES AND DEATHS**
2 **IN MINORITY CHILDREN RELATED TO CON-**
3 **SUMER PRODUCTS.**

4 (a) IN GENERAL.—Not later than 90 days after the
5 date of the enactment of this Act, the Comptroller General
6 shall initiate a study to assess disparities in the risks and
7 incidence of preventable injuries and deaths among chil-
8 dren of minority populations, including Black, Hispanic,
9 American Indian, Alaskan native, and Asian/Pacific Is-
10 lander children in the United States. The Comptroller
11 General shall consult with the Commission as necessary.

12 (b) REQUIREMENTS.—The study shall examine the
13 racial disparities of the rates of preventable injuries and
14 deaths related to suffocation, poisonings, and drownings
15 associated with the use of cribs, mattresses and bedding
16 materials, swimming pools and spas, and toys and other
17 products intended for use by children.

18 (c) REPORT.—Not later than 1 year after the date
19 of the enactment of this Act, the Comptroller General shall
20 report the findings to the Committee on Energy and Com-
21 merce of the House of Representatives and the Committee
22 on Commerce, Science, and Transportation of the Senate.
23 The report shall include—

24 (1) the Comptroller General's findings on the
25 incidence of preventable risks of injuries and deaths

1 among children of minority populations and rec-
2 ommendations for minimizing such risks;

3 (2) recommendations for public outreach,
4 awareness, and prevention campaigns specifically
5 aimed at racial minority populations; and

6 (3) recommendations for education initiatives
7 that may reduce statistical disparities.

8 **TITLE II—CONSUMER PRODUCT** 9 **SAFETY COMMISSION REFORM**

10 **SEC. 201. REAUTHORIZATION OF THE COMMISSION.**

11 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
12 sections (a) and (b) of section 32 (15 U.S.C. 2081) are
13 amended to read as follows:

14 “(a) There are authorized to be appropriated to the
15 Commission for the purpose of carrying out the provisions
16 of this Act and any other provision of law the Commission
17 is authorized or directed to carry out—

18 “(1) \$80,000,000 for fiscal year 2009;

19 “(2) \$90,000,000 for fiscal year 2010; and

20 “(3) \$100,000,000 for fiscal year 2011.

21 “(b) In addition to the amounts specified in sub-
22 section (a), there are authorized to be appropriated
23 \$20,000,000 to the Commission for fiscal years 2009
24 through 2011, for the purpose of renovation, repair, recon-
25 struction, re-equipping, and making other necessary cap-

1 ital improvements to the Commission’s research, develop-
2 ment, and testing facility (including bringing the facility
3 into compliance with applicable environmental, safety, and
4 accessibility standards).”.

5 (b) REPORT TO CONGRESS.—Not later than 6
6 months after the date of enactment of this Act, the Com-
7 mission shall transmit to Congress a report of its plans
8 to allocate the funding authorized by subsection (a). Such
9 report shall include—

10 (1) the number of full time inspectors the Com-
11 mission intends to employ;

12 (2) the plan of the Commission for risk assess-
13 ment and inspection of imported consumer products;

14 (3) an assessment of the feasibility of man-
15 dating import bonds for serious hazards and repeat
16 offenders and Commission inspection and certifi-
17 cation of foreign third-party and proprietary testing
18 facilities; and

19 (4) the efforts of the Commission to reach and
20 educate informal sellers, such as thrift shops and
21 yard sales, concerning consumer product safety
22 standards, especially standards relating to durable
23 nursery products, in order to prevent the resale of
24 any products that have been recalled.

1 **SEC. 202. STRUCTURE AND QUORUM.**

2 (a) **EXTENSION OF TEMPORARY QUORUM.**—Notwith-
3 standing section 4(d) of the Consumer Product Safety Act
4 (15 U.S.C. 2053(d)), 2 members of the Commission, if
5 they are not affiliated with the same political party, shall
6 constitute a quorum for the transaction of business for
7 the period beginning on the date of enactment of this Act
8 through—

9 (1) August 3, 2008, if the President nominates
10 a person to fill a vacancy on the Commission prior
11 to such date; or

12 (2) the earlier of—

13 (A) 3 months after the date on which the
14 President nominates a person to fill a vacancy
15 on the Commission after such date; or

16 (B) February 3, 2009.

17 (b) **REPEAL OF LIMITATION.**—The first proviso in
18 the account under the heading “CONSUMER PRODUCT
19 SAFETY COMMISSION, SALARIES AND EXPENSES” in title
20 III of Public Law 102–389 (15 U.S.C. 2053 note) shall
21 cease to be in effect after fiscal year 2010.

22 **SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS**
23 **TO CONGRESS.**

24 (a) **IN GENERAL.**—Notwithstanding any rule, regula-
25 tion, or order to the contrary, the Commission shall com-
26 ply with the requirements of section 27(k) of the Con-

1 consumer Product Safety Act (15 U.S.C. 2076) with respect
2 to budget recommendations, legislative recommendations,
3 testimony, and comments on legislation submitted by the
4 Commission to the President or the Office of Management
5 and Budget after the date of enactment of this Act.

6 (b) REINSTATEMENT OF REQUIREMENT.—Section
7 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is
8 amended—

9 (1) by striking “or” after the semicolon in
10 paragraph (31);

11 (2) by redesignating paragraph (32) as (33);
12 and

13 (3) by inserting after paragraph (31) the fol-
14 lowing:

15 “(32) section 27(k) of the Consumer Product
16 Safety Act (15 U.S.C. 2076(k)); or”.

17 **SEC. 204. EXPEDITED RULEMAKING.**

18 (a) RULEMAKING UNDER THE CONSUMER PRODUCT
19 SAFETY ACT.—

20 (1) ADVANCED NOTICE OF PROPOSED RULE-
21 MAKING REQUIREMENT.—Section 9 (15 U.S.C.
22 2058) is amended—

23 (A) by striking “shall be commenced” in
24 subsection (a) and inserting “may be com-
25 menced”;

1 (B) by striking “in the notice” in sub-
2 section (b) and inserting “in a notice”;

3 (C) by striking “unless, not less than 60
4 days after publication of the notice required in
5 subsection (a), the” in subsection (c) and in-
6 serting “unless the”;

7 (D) by inserting “or notice of proposed
8 rulemaking” after “advance notice of proposed
9 rulemaking” in subsection (c); and

10 (E) by striking “an advance notice of pro-
11 posed rulemaking under subsection (a) relating
12 to the product involved,” in the third sentence
13 of subsection (c) and inserting “the notice”.

14 (2) CONFORMING AMENDMENT.—Section
15 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by strik-
16 ing “an advance notice of proposed rulemaking or”.

17 (b) RULEMAKING UNDER FEDERAL HAZARDOUS
18 SUBSTANCES ACT.—

19 (1) IN GENERAL.—Section 3(a) of the Federal
20 Hazardous Substances Act (15 U.S.C. 1262(a)) is
21 amended to read as follows:

22 “(a) IN GENERAL.—Whenever in the judgment of the
23 Commission such action will promote the objectives of this
24 Act by avoiding or resolving uncertainty as to its applica-
25 tion, the Commission may by regulation declare to be a

1 hazardous substance, for the purposes of this Act, any
2 substance or mixture of substances, which the Commission
3 finds meets the requirements section 2(f)(1)(A).”.

4 (2) PROCEDURE.—

5 (A) Section 2(q)(2) of the Federal Haz-
6 arduous Substances Act (15 U.S.C. 1261(q)(2))
7 is amended by striking “Proceedings for the
8 issuance, amendment, or repeal of regulations
9 pursuant to clause (B) of subparagraph (1) of
10 this paragraph shall be governed by the provi-
11 sions of sections 701(e), (f), and (g) of the Fed-
12 eral Food, Drug, and Cosmetic Act: Provided,
13 That if” and inserting “Proceedings for the
14 issuance, amendment, or repeal of regulations
15 pursuant to clause (B) of subparagraph (1) of
16 this paragraph shall be governed by the provi-
17 sions of subsections (f) through (i) of section 3
18 of this Act, except that if”.

19 (B) Section 3(a)(2) of the Federal Haz-
20 arduous Substances Act (15 U.S.C. 1262(a)(2))
21 is amended to read as follows:

22 “(2) Proceedings for the issuance, amendment, or re-
23 peal of regulations under this subsection and the admissi-
24 bility of the record of such proceedings in other pro-

1 ceedings, shall be governed by the provisions of sub-
2 sections (f) through (i) of this section.”.

3 (3) ADVANCED NOTICE OF PROPOSED RULE-
4 MAKING REQUIREMENT.—Section 3 of the Federal
5 Hazardous Substances Act (15 U.S.C. 1262) is
6 amended—

7 (A) by striking “shall be commenced” in
8 subsection (f) and inserting “may be com-
9 menced”;

10 (B) by striking “in the notice” in sub-
11 section (g)(1) and inserting “in a notice”; and

12 (C) by striking “unless, not less than 60
13 days after publication of the notice required in
14 subsection (f), the” in subsection (h) and in-
15 serting “unless the”.

16 (4) CONFORMING AMENDMENTS.—The Federal
17 Hazardous Substances Act (15 U.S.C. 1261 et seq.)
18 is amended—

19 (A) by striking paragraph (d) of section 2
20 and inserting the following:

21 “(d) The term ‘Commission’ means the Con-
22 sumer Product Safety Commission.”;

23 (B) by striking “Secretary” each place it
24 appears and inserting “Commission” except—

25 (i) in section 10(b) (15 U.S.C. 1269);

1 (ii) in section 14 (15 U.S.C. 1273);

2 and

3 (iii) in section 21(a) (15 U.S.C.
4 1276(a));

5 (C) by striking “Department” each place it
6 appears, except in section 14(b), and inserting
7 “Commission”;

8 (D) by striking “he” and “his” each place
9 they appear in reference to the Secretary and
10 inserting “it” and “its”, respectively;

11 (E) by striking “Secretary of Health, Edu-
12 cation, and Welfare” each place it appears in
13 section 10(b) (15 U.S.C. 1269(b) and inserting
14 “Commission”;

15 (F) by striking “Secretary of Health, Edu-
16 cation, and Welfare” each place it appears in
17 section 14 (15 U.S.C. 1273) and inserting
18 “Commission”;

19 (G) by striking “Department of Health,
20 Education, and Welfare” in section 14(b) (15
21 U.S.C. 1273(b)) and inserting “Commission”;

22 (H) by striking “Consumer Product Safety
23 Commission” each place it appears and insert-
24 ing “Commission”; and

1 (I) by striking “(hereinafter in this section
2 referred to as the ‘Commission’)” in section
3 20(a)(1) (15 U.S.C. 1275(a)(1)).

4 (c) RULEMAKING UNDER THE FLAMMABLE FABRICS
5 ACT.—

6 (1) IN GENERAL.—Section 4 of the Flammable
7 Fabrics Act (15 U.S.C. 1193) is amended—

8 (A) by striking “shall be commenced” and
9 inserting “may be commenced by a notice of
10 proposed rulemaking or”;

11 (B) in subsection (i), by striking “unless,
12 not less than 60 days after publication of the
13 notice required in subsection (g), the” and in-
14 serting “unless the”.

15 (2) OTHER CONFORMING AMENDMENTS.—The
16 Flammable Fabrics Act (15 U.S.C. 1193 et seq.) is
17 further amended—

18 (A) by striking paragraph (i) of section 2
19 and inserting the following:

20 “(i) The term ‘Commission’ means the Con-
21 sumer Product Safety Commission.”;

22 (B) by striking “Secretary of Commerce”
23 each place it appears and inserting “the Com-
24 mission”;

1 (C) by striking “Secretary” each place it
2 appears, except in sections 9 and 14, and in-
3 sserting “Commission”;

4 (D) by striking “he” and “his” each place
5 either term appears in reference to the sec-
6 retary and insert “it” and “its”, respectively;

7 (E) in section 4(e), by striking paragraph
8 (5) and redesignating paragraph (6) as para-
9 graph (5);

10 (F) in section 15, by striking “Consumer
11 Product Safety Commission (hereinafter re-
12 ferred to as the ‘Commission’)” and inserting
13 “Commission”;

14 (G) by striking section 16(d) and inserting
15 the following:

16 “(d) In this section, a reference to a flammability
17 standard or other regulation for a fabric, related mate-
18 rials, or product in effect under this Act includes a stand-
19 ard of flammability continued in effect by section 11 of
20 the Act of December 14, 1967 (Public Law 90–189).”;
21 and

22 (H) in section 17, by striking “Consumer
23 Product Safety Commission” and inserting
24 “Commission”.

1 **SEC. 205. PUBLIC DISCLOSURE OF INFORMATION.**

2 Section 6(b) (15 U.S.C. 2055(b)) is amended—

3 (1) in paragraph (1)—

4 (A) by striking “30 days” and inserting
5 “15 days”;

6 (B) by striking “finds that the public” and
7 inserting “publishes a finding that the public”;
8 and

9 (C) by striking “and publishes such a find-
10 ing in the Federal Register”;

11 (2) in paragraph (2)—

12 (A) by striking “10 days” and inserting “5
13 days”;

14 (B) by striking “finds that the public” and
15 inserting “publishes a finding that the public”;
16 and

17 (C) by striking “and publishes such a find-
18 ing in the Federal Register”;

19 (3) in paragraph (4), by striking “section 19
20 (related to prohibited acts)” and inserting “any con-
21 sumer product safety rule under this Act or similar
22 rule under or provision of any other Act adminis-
23 tered by the Commission”; and

24 (4) in paragraph (5)—

25 (A) in subparagraph (B), by striking “;
26 or” and inserting a semicolon;

1 (B) in subparagraph (C), by striking the
2 period and inserting “; or”;

3 (C) by adding at the end the following:

4 “(D) the Commission publishes a finding that
5 the public health and safety require public disclosure
6 with a lesser period of notice than is required under
7 paragraph (1).”; and

8 (D) in the matter following such subpara-
9 graph (as added by subparagraph (C)), by
10 striking “section 19(a)” and inserting “any
11 consumer product safety rule under this Act or
12 similar rule under or provision of any other Act
13 administered by the Commission”.

14 **SEC. 206. PROHIBITION ON STOCKPILING UNDER OTHER**
15 **COMMISSION-ENFORCED STATUTES.**

16 Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

17 (1) by inserting “or to which a rule under any
18 other law enforced by the Commission applies,” after
19 “applies,”; and

20 (2) by striking “consumer product safety” the
21 second, third, and fourth places it appears.

22 **SEC. 207. NOTIFICATION OF NONCOMPLIANCE WITH ANY**
23 **COMMISSION-ENFORCED STATUTE.**

24 Section 15(b) (15 U.S.C. 2064(b)) is amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (3) and (4), respectively;

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) fails to comply with any other rule affect-
6 ing health and safety promulgated by the Commis-
7 sion under the Federal Hazardous Substances Act,
8 the Flammable Fabrics Act, or the Poison Preven-
9 tion Packaging Act;”; and

10 (3) by adding at the end the following sentence:

11 “A report provided under this paragraph (2) may
12 not be used as the basis for criminal prosecution”.

13 **SEC. 208. CORRECTIVE ACTION PLANS.**

14 Section 15(d) (15 U.S.C. 2064(d)) is amended—

15 (1) by inserting “(1)” after the subsection des-
16 ignation;

17 (2) by redesignating paragraphs (1), (2), and
18 (3) as subparagraphs (A), (B), and (C);

19 (3) by striking “more (A)” in subparagraph
20 (C), as redesignated, and inserting “more (i)”;

21 (4) by striking “or (B)” in subparagraph (C),
22 as redesignated, and inserting “or (ii)”;

23 (5) by striking “An order under this subsection
24 may” and inserting:

25 “(2) An order under this subsection shall”;

1 (6) by striking “, satisfactory to the Commis-
2 sion,” and inserting “, as promptly as practicable
3 under the circumstances, as determined by the Com-
4 mission, for approval by the Commission,”; and

5 (7) by adding at the end the following:

6 “(3)(A) If the Commission approves an action plan,
7 it shall indicate its approval in writing.

8 “(B) If the Commission finds that an approved action
9 plan is not effective or appropriate under the cir-
10 cumstances, or that the manufacturer, retailer, or dis-
11 tributor is not executing an approved action plan effec-
12 tively, the Commission may, by order, amend, or require
13 amendment of, the action plan.

14 “(C) If the Commission determines, after notice and
15 opportunity for comment, that a manufacturer, retailer,
16 or distributor has failed to comply substantially with its
17 obligations under its action plan, the Commission may re-
18 voke its approval of the action plan.”.

19 **SEC. 209. WEBSITE NOTICE, NOTICE TO THIRD PARTY**
20 **INTERNET SELLERS, AND RADIO AND TELE-**
21 **VISION NOTICE.**

22 Section 15(c)(1) (15 U.S.C. 2064(c)(1)) is amended
23 by inserting “, including posting clear and conspicuous no-
24 tice on its Internet website, providing notice to any third
25 party Internet website on which such manufacturer, re-

1 tailer, or distributor has placed the product for sale, and
2 announcements in languages other than English and on
3 radio and television where the Commission determines
4 that a substantial number of consumers to whom the recall
5 is directed may not be reached by other notice” after
6 “comply”.

7 **SEC. 210. IDENTIFICATION OF MANUFACTURER, IMPORT-**
8 **ERS, RETAILERS, AND DISTRIBUTORS.**

9 Section 16 (15 U.S.C. 2065) is amended by adding
10 at the end thereof the following:

11 “(c) Upon request by an officer or employee duly des-
12 ignated by the Commission—

13 “(1) every importer, retailer, or distributor of a
14 consumer product (or other product or substance
15 over which the Commission has jurisdiction under
16 this or any other Act) shall identify the manufac-
17 turer of that product by name, address, or such
18 other identifying information as the officer or em-
19 ployee may request, to the extent that such informa-
20 tion is in the possession of the importer, retailer, or
21 distributor; and

22 “(2) every manufacturer shall identify by name,
23 address, or such other identifying information as the
24 officer or employee may request—

1 “(A) each retailer or distributor to which
2 the manufacturer directly supplied a given con-
3 sumer product (or other product or substance
4 over which the Commission has jurisdiction
5 under this or any other Act);

6 “(B) each subcontractor involved in the
7 production or fabrication or such product or
8 substance; and

9 “(C) each subcontractor from which the
10 manufacturer obtained a component thereof.”.

11 **SEC. 211. EXPORT OF RECALLED AND NON-CONFORMING**
12 **PRODUCTS.**

13 (a) IN GENERAL.—Section 18 (15 U.S.C. 2067) is
14 amended by adding at the end the following:

15 “(c) Notwithstanding any other provision of this sec-
16 tion, the Commission may prohibit, by order, a person
17 from exporting from the United States for purpose of sale
18 any consumer product, or other product or substance that
19 is regulated under any Act enforced by the Commission,
20 that the Commission determines, after notice to the manu-
21 facturer—

22 “(1) is not in conformity with an applicable
23 consumer product safety rule under this Act or a
24 similar rule under any such other Act;

1 “(2) is subject to an order issued under section
2 12 or 15 of this Act or designated as a banned haz-
3 ardous substance under the Federal Hazardous Sub-
4 stances Act (15 U.S.C. 1261 et seq.); or

5 “(3) is subject to a voluntary corrective action
6 taken by the manufacturer, in consultation with the
7 Commission, of which action the Commission has
8 notified the public and that would have been subject
9 to a mandatory corrective action under this or an-
10 other Act enforced by the Commission if voluntary
11 action had not been taken by the manufacturer,
12 unless the importing country has notified the Commission
13 that such country accepts the importation of such product,
14 provided that if the importing country has not so notified
15 the Commission within 30 days after the Commission has
16 provided notice to the importing country of the impending
17 shipment, the Commission may take such action as is ap-
18 propriate with respect to the disposition of the product
19 under the circumstances.”.

20 (b) PROHIBITED ACT.—Section 19(a)(10) (15 U.S.C.
21 2068(a)(10)) is amended by striking the period at the end
22 and inserting “ or violate an order of the Commission
23 issued under section 18(c); or”.

24 (c) CONFORMING AMENDMENTS TO OTHER ACTS.—

1 (1) FEDERAL HAZARDOUS SUBSTANCES ACT.—
2 Section 5(b)(3) of the Federal Hazardous Sub-
3 stances Act (15 U.S.C. 1264(b)(3)) is amended by
4 striking “substance presents an unreasonable risk of
5 injury to persons residing in the United States” and
6 inserting “substance is prohibited under section
7 18(c) of the Consumer Product Safety Act,”.

8 (2) FLAMMABLE FABRICS ACT.—Section 15 of
9 the Flammable Fabrics Act (15 U.S.C. 1202) is
10 amended by adding at the end the following:

11 “(d) Notwithstanding any other provision of this sec-
12 tion, the Consumer Product Safety Commission may pro-
13 hibit, by order, a person from exporting from the United
14 States for purpose of sale any fabric, related material, or
15 product that the Commission determines, after notice to
16 the manufacturer—

17 “(1) is not in conformity with an applicable
18 consumer product safety rule under the Consumer
19 Product Safety Act or with a rule under this Act;

20 “(2) is subject to an order issued under section
21 12 or 15 of the Consumer Product Safety Act or
22 designated as a banned hazardous substance under
23 the Federal Hazardous Substances Act (15 U.S.C.
24 1261 et seq.); or

1 “(3) is subject to a voluntary corrective action
2 taken by the manufacturer, in consultation with the
3 Commission, of which action the Commission has
4 notified the public and that would have been subject
5 to a mandatory corrective action under this or an-
6 other Act enforced by the Commission if voluntary
7 action had not been taken by the manufacturer,
8 unless the importing country has notified the Commission
9 that such country accepts the importation of such product,
10 provided that if the importing country has not so notified
11 the Commission within 30 days after the Commission has
12 provided notice to the importing country of the impending
13 shipment, the Commission may take such action as is ap-
14 propriate with respect to the disposition of the product
15 under the circumstances.”.

16 **SEC. 212. PROHIBITION ON SALE OF RECALLED PRODUCTS.**

17 Section 19(a) (as amended by section 210) (15
18 U.S.C. 2068(a)) is further amended—

19 (1) by striking paragraph (1) and inserting the
20 following:

21 “(1) sell, offer for sale, manufacture for sale,
22 distribute in commerce, or import into the United
23 States any consumer product, or other product or
24 substance that is regulated under any other Act en-
25 forced by the Commission, that is—

1 “(A) not in conformity with an applicable
2 consumer product safety standard under this
3 Act, or any similar rule under any such other
4 Act;

5 “(B) subject to voluntary corrective action
6 taken by the manufacturer, in consultation with
7 the Commission, of which action the Commis-
8 sion has notified the public; or

9 “(C) subject to an order issued under sec-
10 tion 12 or 15 of this Act, designated a banned
11 hazardous substance under the Federal Haz-
12 ardous Substances Act (15 U.S.C. 1261 et
13 seq.);”;

14 (2) by striking “or” after the semicolon in
15 paragraph (7);

16 (3) by striking “and” after the semicolon in
17 paragraph (8); and

18 (4) by striking “insulation).” in paragraph (9)
19 and inserting “insulation);”.

20 **SEC. 213. INCREASED CIVIL PENALTY.**

21 (a) **MAXIMUM CIVIL PENALTIES OF THE CONSUMER**
22 **PRODUCT SAFETY COMMISSION.—**

23 (1) **INITIAL INCREASE IN MAXIMUM CIVIL PEN-**
24 **ALTIES.—**

1 (A) TEMPORARY INCREASE.—Notwith-
2 standing the dollar amounts specified for max-
3 imum civil penalties specified in section
4 20(a)(1) of the Consumer Product Safety Act
5 (15 U.S.C. 2069(a)(1)), section 5(e)(1) of the
6 Federal Hazardous Substances Act, and section
7 5(e)(1) of the Flammable Fabrics Act (15
8 U.S.C. 1194(e)(1)), the maximum civil pen-
9 alties for any violation specified in such sections
10 shall be \$5,000,000, beginning on the date that
11 is the earlier of the date on which final regula-
12 tions are issued under section 3(b) or 360 days
13 after the date of enactment of this Act.

14 (B) EFFECTIVE DATE.—Paragraph (1)
15 shall cease to be in effect on the date on which
16 the amendments made by subsection (b)(1)
17 shall take effect.

18 (2) PERMANENT INCREASE IN MAXIMUM CIVIL
19 PENALTIES.—

20 (A) AMENDMENTS.—

21 (i) CONSUMER PRODUCT SAFETY
22 ACT.—Section 20(a)(1) 15 U.S.C.
23 2069(a)(1) is amended by striking
24 “\$1,250,000” both places it appears and
25 inserting “\$10,000,000”.

1 (ii) FEDERAL HAZARDOUS SUB-
2 STANCES ACT.—Section 5(c)(1) of the Fed-
3 eral Hazardous Substances Act (15 U.S.C.
4 1264(c)(1)) is amended by striking
5 “\$1,250,000” both places it appears and
6 inserting “\$10,000,000”.

7 (iii) FLAMMABLE FABRICS ACT.—Sec-
8 tion 5(e)(1) of the Flammable Fabrics Act
9 (15 U.S.C. 1194(e)(1)) is amended by
10 striking “\$1,250,000” and inserting
11 “\$10,000,000”.

12 (B) EFFECTIVE DATE.—The amendments
13 made by paragraph (1) shall take effect on the
14 date that is 1 year after the earlier of—

15 (i) the date on which final regulations
16 are issued pursuant to section 3(b); or

17 (ii) 360 days after the date of enact-
18 ment of this Act.

19 (b) DETERMINATION OF PENALTIES BY THE CON-
20 SUMER PRODUCT SAFETY COMMISSION.—

21 (1) FACTORS TO BE CONSIDERED.—

22 (A) CONSUMER PRODUCT SAFETY ACT.—
23 Section 20(b) (15 U.S.C. 2069(b)) is amend-
24 ed—

1 (i) by inserting “the nature, cir-
2 cumstances, extent, and gravity of the vio-
3 lation, including” after “shall consider”;

4 (ii) by striking “products distributed,
5 and” and inserting “products distrib-
6 uted,”; and

7 (iii) by inserting “, and such other
8 factors as appropriate” before the period.

9 (B) FEDERAL HAZARDOUS SUBSTANCES
10 ACT.—Section 5(c)(3) of the Federal Haz-
11 ardous Substances Act (15 U.S.C. 1264(c)(3))
12 is amended—

13 (i) by inserting “the nature, cir-
14 cumstances, extent ,and gravity of the vio-
15 lation, including” after “shall consider”;

16 (ii) by striking “substance distributed,
17 and” and inserting “substance distrib-
18 uted,”; and

19 (iii) by inserting “, and such other
20 factors as appropriate” before the period.

21 (C) FLAMMABLE FABRICS ACT.—Section
22 5(e)(2) of the Flammable Fabrics Act (15
23 U.S.C. 1194(e)(2)) is amended—

1 (i) by striking “nature and number”
2 and inserting “nature, circumstances, ex-
3 tent, and gravity”;

4 (ii) by striking “absence of injury,
5 and” and inserting “absence of injury,”;
6 and

7 (iii) by inserting “, and such other
8 factors as appropriate” before the period.

9 (2) REGULATIONS.—Not later than 1 year after
10 the date of enactment of this Act, and in accordance
11 with the procedures of section 553 of title 5, United
12 States Code, the Commission shall issue a final reg-
13 ulation providing its interpretation of the penalty
14 factors described in section 20(b) of the Consumer
15 Product Safety Act (15 U.S.C. 2069(b)), section
16 5(c)(3) of the Federal Hazardous Substances Act
17 (15 U.S.C. 1264(e)(3)), and section 5(e)(2) of the
18 Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as
19 amended by subsection (a).

20 **SEC. 214. CRIMINAL PENALTIES TO INCLUDE ASSET FOR-**
21 **FEITURE.**

22 Section 21 (15 U.S.C. 2070) is amended by adding
23 at the end thereof the following:

24 “(c)(1) In addition to the penalty provided by sub-
25 section (a), the penalty for a criminal violation of this Act

1 or any other Act enforced by the Commission may include
2 the forfeiture of assets associated with the violation.

3 “(2) In this subsection, the term ‘criminal violation’
4 means a violation of this Act or any other Act enforced
5 by the Commission for which the violator is sentenced
6 under this section, section 5(a) of the Federal hazardous
7 Substances Act (15 U.S.C. 2064(a)), or section 7 of the
8 Flammable Fabrics Act (15 U.S.C. 1196).”

9 **SEC. 215. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

10 Section 24 (15 U.S.C. 2073) is amended—

11 (1) in the section heading, by striking “PRI-
12 VATE” and inserting “ADDITIONAL”;

13 (2) by striking “Any interested person” and in-
14 serting “(a) Any interested person”; and

15 (3) by striking “No separate suit” and all that
16 follows and inserting the following:

17 “(b)(1) The attorney general of a State, alleging a
18 violation that affects or may affect such State or its resi-
19 dents may bring an action on behalf of the residents of
20 the State in any United States district court for the dis-
21 trict in which the defendant is found or transacts business
22 to enforce a consumer product safety rule or an order
23 under section 15, and to obtain appropriate injunctive re-
24 lief.

1 “(2) Not less than thirty days prior to the commence-
2 ment of such action, the attorney general shall give notice
3 by registered mail to the Commission, to the Attorney
4 General, and to the person against whom such action is
5 directed. Such notice shall state the nature of the alleged
6 violation of any such standard or order, the relief to be
7 requested, and the court in which the action will be
8 brought. The Commission shall have the right—

9 “(A) to intervene in the action;

10 “(B) upon so intervening, to be heard on all
11 matters arising therein;

12 “(C) and to file petitions for appeal.

13 “(c) No separate suit shall be brought under this sec-
14 tion if at the time the suit is brought the same alleged
15 violation is the subject of a pending civil or criminal action
16 by the United States under this Act. In any action under
17 this section the court may in the interest of justice award
18 the costs of suit, including reasonable attorneys’ fees (de-
19 termined in accordance with section 11(f)) and reasonable
20 expert witnesses’ fees.”.

21 **SEC. 216. SHARING OF INFORMATION WITH FEDERAL,**
22 **STATE, LOCAL, AND FOREIGN GOVERNMENT**
23 **AGENCIES.**

24 Section 29 (15 U.S.C. 2078) is amended by adding
25 at the end the following:

1 “(f)(1) The Commission may make information ob-
2 tained by the Commission under section 6 available to any
3 Federal, State, local, or foreign government agency upon
4 the prior certification of an appropriate official of any
5 such agency, either by a prior agreement or memorandum
6 of understanding with the Commission or by other written
7 certification, that such material will be maintained in con-
8 fidence and will be used only for official law enforcement
9 or consumer protection purposes, if—

10 “(A) the agency has set forth a bona fide legal
11 basis for its authority to maintain the material in
12 confidence;

13 “(B) the materials are to be used for purposes
14 of investigating, or engaging in enforcement pro-
15 ceedings related to, possible violations of—

16 “(i) laws regulating the manufacture, im-
17 portation, distribution, or sale of defective or
18 unsafe consumer products, or other practices
19 substantially similar to practices prohibited by
20 any law administered by the Commission;

21 “(ii) a law administered by the Commis-
22 sion, if disclosure of the material would further
23 a Commission investigation or enforcement pro-
24 ceeding; or

1 “(iii) with respect to a foreign law enforce-
2 ment agency, with the approval of the Attorney
3 General, other foreign criminal laws, if such
4 foreign criminal laws are offenses defined in or
5 covered by a criminal mutual legal assistance
6 treaty in force between the government of the
7 United States and the foreign law enforcement
8 agency’s government; and

9 “(C) in the case of a foreign government agen-
10 cy, such agency is not from a foreign state that the
11 Secretary of State has determined, in accordance
12 with section 6(j) of the Export Administration Act
13 of 1979 (50 U.S.C. App. 2405(j)), has repeatedly
14 provided support for acts of international terrorism,
15 unless and until such determination is rescinded
16 pursuant to section 6(j)(4) of that Act (50 U.S.C.
17 App. 2405(j)(4)).

18 “(2) The Commission may abrogate any agree-
19 ment or memorandum of understanding entered into
20 under paragraph (1) if the Commission determines
21 that the agency with which such agreement or
22 memorandum of understanding was entered into has
23 failed to maintain in confidence any information pro-
24 vided under such agreement or memorandum of un-
25 derstanding, or has used any such information for

1 purposes other than those set forth in such agree-
2 ment or memorandum of understanding.

3 “(3)(A) Except as provided in subparagraph
4 (B) of this paragraph, the Commission shall not be
5 required to disclose under section 552 of title 5,
6 United States Code, or any other provision of law—

7 “(i) any material obtained from a foreign
8 government agency, if the foreign government
9 agency has requested confidential treatment, or
10 has precluded such disclosure under other use
11 limitations, as a condition of providing the ma-
12 terial;

13 “(ii) any material reflecting a consumer
14 complaint obtained from any other foreign
15 source, if that foreign source supplying the ma-
16 terial has requested confidential treatment as a
17 condition of providing the material; or

18 “(iii) any material reflecting a consumer
19 complaint submitted to a Commission reporting
20 mechanism sponsored in part by foreign govern-
21 ment agencies.

22 “(B) Nothing in this subsection shall authorize
23 the Commission to withhold information from the
24 Congress or prevent the Commission from complying
25 with an order of a court of the United States in an

1 action commenced by the United States or the Com-
2 mission.

3 “(4) In this subsection, the term ‘foreign government
4 agency’ means—

5 “(A) any agency or judicial authority of a for-
6 eign government, including a foreign state, a polit-
7 ical subdivision of a foreign state, or a multinational
8 organization constituted by and comprised of foreign
9 states, that is vested with law enforcement or inves-
10 tigative authority in civil, criminal, or administrative
11 matters; and

12 “(B) any multinational organization, to the ex-
13 tent that it is acting on behalf of an entity described
14 in subparagraph (A).

15 “(g) Whenever the Commission is notified of any vol-
16 untary recall of any consumer product self-initiated by a
17 manufacturer (or a retailer in the case of a retailer selling
18 a product under its own label), or issues an order under
19 section 15(c) or (d) with respect to any product, the Com-
20 mission shall notify the State health department of each
21 State of the recall or order.”.

22 **SEC. 217. INDUSTRY-SPONSORED TRAVEL BAN.**

23 The Consumer Product Safety Act (15 U.S.C. 1251
24 et seq.) is amended by adding at the end the following
25 new section:

1 **“SEC. 38. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.**

2 “(a) PROHIBITION.—Notwithstanding any other pro-
3 vision of law, no Commissioner or employee of the Com-
4 mission shall accept anything of value, including transpor-
5 tation and lodging expenses, from a person—

6 “(1) seeking official action from, doing business
7 with, or conducting activities regulated by, the Com-
8 mission; or

9 “(2) whose interests may be substantially af-
10 fected by the performance or nonperformance of the
11 Commissioner’s or employee’s official duties.

12 “(b) AUTHORIZATION OF APPROPRIATIONS FOR OF-
13 FICIAL TRAVEL.—There are authorized to be appropriated
14 \$1,200,000 to the Commission for certain travel and lodg-
15 ing expenses necessary in furtherance of the official duties
16 of Commissioners and employees.”.